

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

William Howard Rutland, III ) Civil Action No.: 8:09-1822-SB-BHH  
)  
Plaintiff, )  
)  
vs. ) **REPORT AND RECOMMENDATION**  
) **OF MAGISTRATE JUDGE**  
Sargent Rosemary Sanders, BCSO; )  
and Ms. K. Shuler, Records Officer, )  
BCDC, )  
)  
Defendants. )

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On September 24, 2009, the defendants filed a motion for summary judgment. On September 30, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff did not respond to the motion.

As the plaintiff is proceeding *pro se*, the court filed a second order on November 9, 2009, giving the plaintiff through December 2, 2009, to file his response to the motion for summary judgment. The plaintiff was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The plaintiff did not respond.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *with prejudice* for lack of prosecution and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp.*

*v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks  
United States Magistrate Judge

December 10, 2009

Greenville, South Carolina

**The petitioner's attention is directed to the important notice on the next page.**